

## APPENDIX A

### CLASSIFICATION OF COMPLAINTS

A complaint is an allegation by a member of the public which accuses the San José Police Department (SJPD) or one of its members of wrongdoing. The allegations must involve violations of law or of the SJPD policies and procedures. A complaint involves an administrative process where discipline may be imposed by the SJPD and must not be confused with criminal charges which are filed by the District Attorney's office. There are six classifications of complaints:

1. **Formal Complaint:** After the initial investigation by the Intake Officer, the Department determines that the facts of the allegations are such, that should they be proven, the allegation would amount to a violation of the law or of the Department policies, procedures, rules or regulations.
  - a. **Civilian-Initiated (CI) Complaint** initiated by a citizen<sup>1</sup> alleging misconduct on the part of a member of the SJPD.
  - b. **Department-Initiated (DI) Complaint** allege a serious violation of Department policy or a violation of law by an officer; these Formal complaints are initiated by the Office of the Chief.
2. **Informal (IN) Complaint** involve allegations of minor transgressions on the part of a subject officer<sup>2</sup> which may be handled informally by bringing the matter to the attention of the officer's chain of command at the complainant's request.<sup>3</sup> At the end of the investigation, the assigned finding is "Supervisor Review." This is typically a Rude Conduct complaint. However, if the complainant feels that such conduct was in his or her opinion egregious that a Formal (CI or DI) complaint is warranted, the Professional Standards and Conduct Unit is then obligated to investigate this complaint as such. The complainant has ultimate control as to whether to treat the complaint as Formal or Informal.
3. **Procedural (PR) Complaint** is defined in two separate portions:
  - (a) The first portion includes the following: "After the initial investigation by the Intake Officer, the Department determines the subject officer acted reasonably and within Department policy and procedure given the specific circumstances and facts of the incident and that despite the allegation of misconduct, there is no factual basis to support the allegation." At the end of the investigation, the assigned finding will be "Within Department Policy."

1 A citizen is denoted as an individual, not reflective of U.S. citizenship. Any member of the public may file a complaint. The complaint however, must be one that is directly affected by the wrongdoing of the officer involved or one who witnessed the incident.

2 Subject officer refers to the officer of whom the complaint is about.

3 San José Police Department, Internal Affairs Unit Guideline, page 3.

**(b)** The second portion of the definition includes: "The allegation is a dispute of fact case wherein there is no independent information, evidence or witnesses available to support the complaint and there exists another judicial entity which is available to process the concerns of the complainant." A finding of "No Misconduct Determined" will be assigned to the dispute of fact cases.

For example, a person files a complaint alleging an Unlawful Search, where the complainant states that the police entered his or her home and conducted a search. After a preliminary investigation, the Professional Standards and Conduct officer discovers that the complainant is on parole and has a search clause. The case will be closed with a finding of "No Misconduct."

4. **Policy (PO) Complaint** pertains to an established policy, properly employed by a Department member, which the complainant understands but believes is inappropriate or not valid. These complaints do not focus on the conduct of the officer but on the policy or law with which the complainant disagrees.
5. **No Boland (NB) Complaint** is a complaint that is closed within 30 days from the date the complaint was received due to the complainant failing to sign the Boland Admonishment. State law requires that the complainant sign a Boland Admonishment form in order to have the complaint fully investigated.
6. **Inquiry Complaint** refers to any contact with a citizen in reference to any issue of concern that is immediately resolved to the satisfaction of the citizen, which does not give rise to a complaint. Any concern that is not immediately resolved to their satisfaction, can become a complaint.